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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

VALLIER WILLIAM TOMPKINS, III

*Petitioner,*

VS.

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12 WARDEN RAGA et al.

13 || Respondents

3:16-cv-00393-HDM-WGC

ORDER

16 Petitioner, a Nevada prisoner, has submitted a petition for writ of habeas corpus pursuant to 28  
17 U.S.C. § 2254. ECF No. 1. Petitioner has failed to submit an application to proceed *in forma pauperis*  
18 or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. §  
19 1915(a)(2) and Local Rules LSR1-1, 1-2.

20 Thus, the present action will be dismissed without prejudice to the filing of a habeas petition  
21 pursuant to 28 U.S.C. § 2254 on the form required by this court in a new action with either the \$5.00  
22 filing fee or a completed application to proceed *in forma pauperis* on the proper form with both an  
23 inmate account statement for the past six months and a properly executed financial certificate.

24 It does not appear from the papers presented that a dismissal without prejudice will materially  
25 affect a later analysis of any timeliness issue with regard to a **promptly-filed** new action. Petitioner at  
26 all times remains responsible for properly exhausting his claims, for calculating the running of the  
27 federal limitation period as applied to his case, and for properly commencing a timely-filed federal  
28 habeas action.

1       **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice to the  
2 filing of a petition in a new action with either the \$5.00 filing fee or a properly completed application  
3 form to proceed *in forma pauperis*.

4       **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as jurists of  
5 reason would not find the court's dismissal of this improperly commenced action without prejudice to  
6 be debatable or incorrect.

**IT IS FURTHER ORDERED** that the Clerk shall accordingly and close this case.

8       **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each of an  
9 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section 2254  
10 habeas petition form, one copy of the instructions for each form, and a copy of the papers that he  
11 submitted in this action.

12 || Dated this 11<sup>th</sup> day of July, 2016.

Howard D McKibben

UNITED STATES DISTRICT JUDGE